

Eckstein had greater reason than Babbitt to recall the conversation distinctly, since this was the only matter on which he lobbied Babbitt during Babbitt's tenure at Interior, and because he was so shocked and disappointed by both the outcome of his clients' application and the stated reason that Babbitt could not accommodate his request for delay and a meeting with Eckstein's clients. Eckstein's credibility is bolstered further by his sincerely and consistently expressed belief (1) that Babbitt was not attributing to Ickes any role in the decision-making (only in its timing), and (2) that Babbitt's comment about Indians' contributions to Democrats was not necessarily related to the Indians opposing the Hudson application. Indeed, Eckstein did not perceive the latter comment as relating to any possible corruption of the Hudson decision. Obviously, a claim that this comment carried some illicit meaning vis-a-vis the Hudson decision would have served the interest of Eckstein's clients in overturning the decision, and Eckstein's scrupulous refusal to claim such an implication enhanced the credibility of his account.

Although these prior consistent statements by Eckstein to his colleagues, wife and client tend to corroborate his version of the Babbitt-Eckstein conversation, we are mindful that these statements might not be admissible at any trial under rules of evidence excluding prior consistent statements as hearsay.<sup>802</sup> Moreover, while these consistent statements show that Eckstein from the beginning interpreted Babbitt's comments as meaning that Ickes had demanded an immediate

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<sup>801</sup>(...continued)  
consistent with his professed desire to avoid giving unnecessary play to these facts.

<sup>802</sup>Under Fed. R. Evid. 801(d)(1), a prior consistent statement by a witness (Eckstein) is admissible only "to rebut an express or implied charge of recent fabrication or improper influence or motive."